

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Hector R.,

File No. 18-cv-3050 (ECT/KMM)

Petitioner,

v.

**ORDER ACCEPTING REPORT  
AND RECOMMENDATION**

Peter Berg, ICE Field Office  
Director,<sup>1</sup>

Respondent.

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The Court has received the April 1, 2019 Report and Recommendation of United States Magistrate Judge Katherine M. Menendez. ECF No. 14. No party has objected to that Report and Recommendation, and the Court therefore reviews it for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam).

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<sup>1</sup> Petitioner Hector R. originally named “Secretary of Homeland Security, J. Sessions” as the respondent in this matter. *See* Pet. at 1 [ECF No. 1]. As a *pro se* litigant, the Court must liberally construe his pleadings. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). In an immigration-detention habeas proceeding, the properly named respondent is the official with Immigration and Customs Enforcement who controls the petitioner’s custody and can, if necessary, produce him. 28 U.S.C. §§ 2242–43; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). Counsel for then-Secretary of the Department of Homeland Security Kirstjen Nielsen and then-Acting Attorney General Matthew Whittaker filed a response to Hector R.’s petition noting that in this case, that person is ICE Field Office Director Peter Berg. Resp. to Pet. At 1 n.1 [ECF No. 10]. The response requested that Berg be substituted as the proper defendant and that “Secretary of Homeland Security, J. Sessions” be dismissed from the action. *Id.* Petitioner does not object to Berg’s substitution, and the request will be granted.

Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation [ECF No. 14] is **ACCEPTED**; and
2. The Petition of a Writ of Habeas Corpus [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: April 29, 2019

s/ Eric C. Tostrud  
Eric C. Tostrud  
United States District Court